IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.6894/06

Ram Swaroop Jalwal **Versus** Shri Brahm Dev & Anr.

DATE OF ORDER :: 26/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Rajesh Mootha, for petitioner
Mr. Mukesh Kumar Meena, for respondent

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Instant petition has been filed assailing the order dated 22nd March, 2006 [Ann.3] whereby application filed by plaintiff-petitioner U/O 7 R.14 CPC for taking certain documents on record was rejected by learned trial Judge.

Plaintiff-petitioner filed a suit for permanent injunction in which written statement was filed and issues were also framed. At that stage, application was filed by petitioner for taking certain documents on record along with application U/O 7 R.14 CPC – against which objections were raised by defendant-respondent and the learned trial Judge recorded finding that earlier opportunity was afforded to the plaintiff and since he has failed to submit the documents on record, it will not be appropriate now to grant him opportunity of filing at this stage and accordingly, dismissed application with costs of Rs.100/-.

I have considered the submission of both the counsel and perused the material available on record.

This is not disputed between the parties that suit at present is at the stage of recording of evidence to be led by the plaintiff.

It is true that documents have not been filed at the initial stage, but since in the instant matter, the suit is for permanent injunction, certainly plaintiff has to establish his case before learned trial Judge and opportunity was earlier afforded. But, I consider it proper that injustice will be caused to petitioner, if documents referred to therein are not taken on record for consideration

Consequently, the writ petition stands allowed. The order dated 22nd March, 2006 is hereby quashed and set aside and the documents referred to by petitioner be taken on record subject to payment of cost of Rs.3500/-. Since the suit is of 1996, it is expected from the learned trial Judge to decide the same expeditiously in accordance with law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.